

AMENDMENT TO RULES COMMITTEE
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OFFERED BY MR. NADLER OF NEW YORK

Page 705, after line 3, insert the following:

1 **SEC. 1640. LOCAL PROJECT DELIVERY IMPROVEMENTS.**

2 (a) HIGH-PERFORMING LOCAL PUBLIC AGENCY DES-
3 IGNATION.—

4 (1) IN GENERAL.—The Secretary shall des-
5 ignate high-performing local public agencies based
6 on the criteria in paragraph (3) and consistent with
7 the process described under paragraph (4) to be eli-
8 gible to exercise the project delivery methods de-
9 scribed under this section for projects funded under
10 title 23, United States Code.

11 (2) AUTHORITY.—Nothing in this section shall
12 be construed to prohibit a local public agency from
13 taking any action otherwise authorized to secure and
14 expend Federal funds authorized under chapter 1 of
15 title 23, United States Code.

16 (3) CRITERIA.—In designating a high-per-
17 forming local public agency under this section, the
18 Secretary shall consider the legal, financial, and
19 technical capacity of the applicant.

1 (4) REQUIREMENTS.—

2 (A) CALL FOR NOMINATION.—The Sec-
3 retary shall solicit applications for designation
4 under this section.

5 (B) GUIDANCE.—The call for nomination
6 under paragraph (1) shall include guidance on
7 the requirements and responsibilities of a high-
8 performing local public agency under this sec-
9 tion.

10 (C) DETERMINATION.—

11 (i) IN GENERAL.—The Secretary shall
12 have discretion to make any designation
13 under this section.

14 (ii) APPROVAL.—The Secretary may
15 approve for participation under this pro-
16 gram any direct recipient under section
17 1305 of this Act based on the application
18 under such section. Such approval shall
19 only apply to the direct recipient unless the
20 Secretary determines it is appropriate,
21 based on the criteria in subsection (a)(3),
22 to extend the approval to 1 or more sub-
23 recipients of the direct recipient.

24 (5) TERM.—Except as provided in paragraph
25 (6), a designation under this subsection—

1 (A) shall be for a period of not less than
2 5 years; and

3 (B) may be renewable.

4 (6) TERMINATION.—The Secretary shall estab-
5 lish procedures for the termination of a designation
6 under this subsection.

7 (7) LIMITATION.—The Secretary may establish
8 a limitation on the number of participants in the
9 program, based on the availability of administrative
10 resources and the capacity to provide sufficient over-
11 sight of the program established under this section.

12 (b) PROJECT DELIVERY.—

13 (1) IN GENERAL.—

14 (A) METHODS.—The high-performing local
15 public agency may, consistent with the agree-
16 ment entered into with the Secretary under
17 subsection(c), utilize 1 or more of the project
18 delivery methods described in this subsection,
19 notwithstanding the adoption of such methods
20 by the State.

21 (B) RULE OF CONSTRUCTION.—Nothing in
22 this section shall be construed to prohibit a
23 local public agency from using a project delivery
24 method otherwise available to such local public
25 agency under title 23, United States Code.

1 (2) FORCE ACCOUNT.—Notwithstanding sub-
2 sections (a) and (b) of section 112 of title 23,
3 United States Code, a high-performing local public
4 agency may, subject to the terms of the agreement
5 under subsection (c), complete the construction (as
6 such term is defined under section 101 of such title)
7 of a Federal-aid highway project by force account,
8 provided the recipient is qualified to perform the
9 work in a satisfactory manner based on the criteria
10 in subsection (a)(3), as determined by the Secretary.

11 (3) INDEFINITE DELIVERY AND INDEFINITE
12 QUANTITY CONTRACTING.—Subject to the terms of
13 the agreement under subsection (c), a high-per-
14 forming local public agency may use indefinite quan-
15 tity and indefinite delivery contracting, including job
16 order contracting, consistent with the process de-
17 scribed under subpart F of part 635 of title 23,
18 Code of Federal Regulations. If determined appro-
19 priate by the Secretary, the high-performing local
20 public agency may submit an indefinite delivery and
21 indefinite quantity contracting procedures plan di-
22 rectly to the Secretary for approval.

23 (4) ASSUMPTION OF RESPONSIBILITIES OF
24 STATE DEPARTMENTS OF TRANSPORTATION.—

1 (A) IN GENERAL.—Subject to the terms of
2 the agreement under subsection (c), a high-per-
3 forming local public agency may assume, in lieu
4 of a State, for projects covered by an agreement
5 under subsection (c)—

6 (i) the Federal-aid highway project
7 approval, determination, and oversight re-
8 sponsibilities that a State may assume
9 under section 106 of title 23, United
10 States Code; and

11 (ii) the responsibility that a State may
12 assume, under section 326 of title 23,
13 United States Code, for determining
14 whether certain designated activities are
15 included within classes of action identified
16 in regulation by the Secretary that are cat-
17 egorically excluded from requirements for
18 environmental assessments or environ-
19 mental impact statements.

20 (B) TERMS.—In assuming the responsibil-
21 ities under subparagraph (A), the high-per-
22 forming local public agency shall be subject to
23 the same terms, conditions, and requirements
24 at the discretion of the Secretary as would be
25 a State under sections 106(c) and 326 of title

1 23, United States Code, and any associated reg-
2 ulations and procedures.

3 (c) AGREEMENT.—

4 (1) IN GENERAL.—

5 (A) AUTHORITY.—The Secretary and the
6 high-performing local public agency shall enter
7 into an agreement relating to the extent to
8 which the local public agency may assume the
9 authorities described under this section.

10 (B) DISCRETION.—The Secretary shall
11 have the discretion to enter into an agreement
12 under this section for one or more of the
13 project delivery methods described in subsection
14 (b).

15 (C) SCOPE.—

16 (i) IN GENERAL.—The Secretary may
17 make an approval to assume the respon-
18 sibilities described under subsection (b) on
19 a single-project, multiple-project, project-
20 type, or programmatic basis.

21 (ii) COVERED PROJECTS.—The au-
22 thority described under this section may
23 apply to any Federal-aid highway project
24 carried out within the jurisdiction of the

1 high-performing local public agency, at the
2 discretion of the Secretary.

3 (2) SELF-CERTIFICATION OF COMPLIANCE.—

4 (A) IN GENERAL.—The high-performing
5 local public agency may, at the discretion of the
6 Secretary, provide for self-certification of com-
7 pliance for the responsibilities assumed pursu-
8 ant to the agreement established under this sec-
9 tion. The Secretary shall establish procedures
10 governing such self-certification of compliance,
11 including the frequency of such certification.

12 (B) OVERSIGHT.—If the high-performing
13 local public agency assumes the role of self-cer-
14 tification of compliance as described under
15 clause (i), the Secretary shall establish proce-
16 dures to conduct risk-based stewardship and
17 oversight of a local public agency's performance
18 of the assumed responsibilities specified in the
19 agreement under this subsection, as determined
20 necessary or appropriate by the Secretary.

21 (3) ASSISTANCE TO LOCAL PUBLIC AGEN-
22 CIES.—On request of a local public agency, the Sec-
23 retary shall provide to the local public agency tech-
24 nical assistance, training, or other support relating
25 to—

1 (A) assuming responsibilities under this
2 section;

3 (B) developing an agreement under this
4 subsection; or

5 (C) addressing a responsibility under this
6 section in need of corrective action.

7 (4) ADOPTION OF STATE PROCEDURES.—Ex-
8 cept as otherwise provided in the agreement between
9 the Secretary and the high performing local agency,
10 the local public agency shall use any manuals, stand-
11 ards, procedures, and specifications utilized by the
12 State, as determined appropriate by the Secretary.

13 (5) CONSULTATION.—In establishing the agree-
14 ment under this section, the Secretary may require
15 the local public agency to consult with the State de-
16 partment of transportation, as appropriate.

17 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed to limit the ability of a high-per-
19 forming local public agency to partner with a State depart-
20 ment of transportation or other recipient of Federal funds
21 under title 23, United States Code, or chapter 53 of title
22 49, United States Code, to carry out a project.

23 (e) SAVINGS CLAUSE.—Except as provided in this
24 section, all applicable requirements of title 23, United

1 States Code, shall apply to projects carried out under this
2 section.

3 (f) FUNDING.—The Secretary may use for program
4 management, oversight, and technical assistance to high-
5 performing local public agencies amounts made available
6 under section 1305(c)(2) of this Act for technical assist-
7 ance and administration.

8 (g) REPORT.—

9 (1) LOCAL PUBLIC AGENCY REPORT.—Not later
10 than 60 days after the end of each fiscal year, each
11 local public agency designated under this section
12 shall submit to the Secretary a report that in-
13 cludes—

14 (A) a list of projects carried out under this
15 section;

16 (B) a description of the authorities as-
17 sumed under subsection (b), including a sum-
18 mary of the project types carried out under
19 such authorities;

20 (C) recommendations, if any—

21 (i) on other authorities that would be
22 appropriate to assume under this section;
23 and

24 (ii) to improve the effectiveness of the
25 program under this section.

1 (2) REPORT TO CONGRESS.—Not later than Oc-
2 tober 1, 2024, the Secretary shall submit to the
3 Committee on Transportation and Infrastructure of
4 the House of Representatives and the Committee on
5 Environment and Public Works of the Senate a re-
6 port that—

7 (A) summarizes the findings of each local
8 public agency provided under paragraph (1);

9 (B) describes the efforts undertaken by
10 both local public agencies and the Secretary to
11 ensure compliance with the requirements of title
12 23, United States Code; and

13 (C) provides recommendations from the
14 Secretary to—

15 (i) improve the administration, over-
16 sight, and performance of the program es-
17 tablished under this section;

18 (ii) improve the effectiveness of
19 project delivery for local public agencies;

20 (iv) evaluate options to expand the au-
21 thority provided under this section; and

22 (iii) provide legislative recommenda-
23 tions, if any, based on the outcomes of the
24 program.

